

ARTICLE 6

SUBDIVISION REGULATIONS

Summary: This article establishes procedures for the subdivision of land. Included are requirements for the division of land into a subdivision, as defined in Appendix A of this Ordinance, as authorized by Article 8 of NCGS Chapter 160D.

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6.1. GENERAL STANDARDS.

6.1.1. PURPOSE.

6.1.1.1. This Article of the UDO shall officially be known, cited, and referred to as the Subdivision Regulations of the City of Kannapolis, North Carolina.

6.1.1.2. As required by Article 8 of NCGS Chapter 160D, the purpose of establishing this Article is:

6.1.1.2.1. To ensure the orderly growth and development of the City, including the requirement that adequate public facilities are available to serve new subdivisions of land, and the use of techniques such as the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, the assurance of urban form and open space separation of urban areas, the protection of environmentally critical areas and areas premature for urban development.

6.1.1.2.2. To provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities.

6.1.1.2.3. To provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area.

6.1.1.2.4. To provide rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS §§136-66.10 or 136-66.11.

6.1.1.2.5. To provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and the general welfare.

6.1.1.2.6. To provide that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

6.1.2. APPLICABILITY

6.1.2.1. This Article shall apply to any subdivision, as defined in Appendix A of this Ordinance, within the corporate limits of the City or any extraterritorial jurisdiction established pursuant to NCGS § 160D-202.

6.1.2.2. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of this Ordinance. However, all existing preliminary plats that were approved under the prior Ordinance shall remain valid unless or until the approval expires.

6.1.2.3. Rural Subdivisions. Any tract of land to be subdivided for the purpose of residential development within an AG zone shall comply with the provisions of this Article 6 as well as the supplemental standards as set forth in § 5.25 of this Ordinance.

6.1.3. AUTHORITY AND JURISDICTION

6.1.3.1. The Planning and Zoning Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for Conditional Zoning District preliminary major subdivision plats. The Technical Review Committee is vested with the authority to review, revise, and approve major subdivision preliminary plats.

6.1.3.2. The Administrator is vested with the authority to review and approve sketch plats and to approve, conditionally approve and disapprove applications for final minor and major subdivision plats.

6.1.3.3. The Public Works Director is vested with

the authority to review and approve Construction Plans, Subdivision Improvement Agreements, and Maintenance Bonds. The Public Works Director is also granted the authority to inspect and accept or deny all improvements as required by this Article 6.

6.1.3.4. The City Council is vested with the authority to accept all public dedications including, but not limited to right-of-way, easements, park facilities, and open space.

6.1.4. WHEN A SUBDIVISION PLAT IS REQUIRED.

6.1.4.1. From and after the effective date of this chapter, the owner or proprietor of any tract of land who desires to Subdivide land (to create a "Subdivision") shall be required to submit a plat of such Subdivision to the Administrator, whom is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the Administrator must be made in accordance with the regulations set forth in this Article.

6.1.4.2. No person shall Subdivide Land without making and recording a plat and complying fully with the provisions of this Article and all other state and local laws and regulations applying to Subdivisions.

6.1.4.3. No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the Register of Deeds, unless such subdivision was created prior to the adoption of this Ordinance and any other subdivision ordinance applicable thereto.

6.1.4.4. No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this Ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this Ordinance.

6.1.4.5. In any matter in which a court orders the partition of land by dividing the same among the owners, such action shall be exempt from the provisions of this Article, provided that the City is made a party defendant to said action and gives its consent or fails to file responsive pleadings to said

division of the property.

6.1.4.5.1. A final subdivision plat shall be approved by the Administrator before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Administrator in accordance with these regulations.

6.1.5. WHEN A SUBDIVISION PLAT IS NOT REQUIRED.

Pursuant to NCGS § 160D-802(a), a subdivision plat shall not be required for any of the following: (see definition of "Subdivision" in Appendix A).

6.1.5.1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City as shown in this Ordinance;

6.1.5.2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

6.1.5.3. The public acquisition by purchase of strips of land for the widening or opening of streets.

6.1.5.4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this Ordinance.

6.1.5.5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under NCGS Chapter 29.

6.1.6. RECORDATION OF UNAPPROVED PLAT PROHIBITED.

The Register of Deeds shall not file or record any subdivision plat required by this Ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this Article.

6.1.7. SALE OF PROPERTY IN VIOLATION OF THIS ORDINANCE PROHIBITED.

No land described in this Section shall be subdivided or sold, or transferred until each of the following

conditions has occurred in accordance with these regulations:

6.1.7.1. the subdivider or his agent has submitted a conforming sketch plat of the subdivision to the Administrator; and the subdivider or his agent has obtained approval of the sketch plat, a preliminary plat (when required), and a final plat as provided in this Article; and

6.1.7.2. The subdivider or his agent files the final plat with the Register of Deeds.

6.1.8. CLASSIFICATION OF APPLICATIONS.

Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which include two (2) principal steps for an expedited or minor subdivision and three (3) principal steps for a major subdivision:

6.1.8.1. Minor Subdivision (§ 6.3).

6.1.8.1.1. Sketch Plat

6.1.8.1.2. Final Plat

6.1.8.2. Major Subdivision (§ 6.4).

6.1.8.2.1. Sketch Plat

6.1.8.2.2. Preliminary Plat

6.1.8.2.3. Final Subdivision Plat

6.2. CRITERIA FOR SUBDIVISION APPROVAL.

6.2.1. It is the intent of this Ordinance that land to be subdivided shall be of a character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements are existing or proposed, and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities and improvements. Accordingly, the Administrator or Planning and Zoning Commission shall not approve a subdivision plat unless all of the following findings with respect to the proposed development are made:

6.2.1.1. The proposed land uses are in accord with the adopted *Comprehensive Plan* and the Official Zoning Map, or that the means for reconciling any differences have been addressed. A Preliminary Plat may be processed concurrently with a rezoning request.

6.2.1.2. The proposed subdivision conforms to all relevant requirements of this ordinance and to any variances that have been granted to permit any nonconformance. The plat shall meet all requirements of this Ordinance with respect to lot size and area, and in no way create a violation of any applicable current ordinances, statutes, or regulations.

6.2.1.3. The proposed development, including its lot sizes, density, access, and circulation, are compatible with the existing and/or permissible future use of adjacent property.

6.2.1.4. That the proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties.

6.2.2. That the soils and topography have been adequately studied to ensure that all lots are developable for their designated purposes.

6.2.2.1. That any land located within Zone A as shown on the currently adopted Flood Boundary and Floodway Maps of the Flood Insurance Study, is determined to be suitable for its intended use and that the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for

development, severe erosion potential, or any other floodplain-related risks to the health, safety or welfare of the future residents of the proposed subdivision in a manner consistent with this ordinance, as described in § 4.14 of this Ordinance.

6.2.3. The proposed name of a subdivision shall be approved by the Cabarrus County E-911 Coordinator and shall not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the E-911 jurisdiction except for the words "court," "addition," "place," "heights," "hills," and similar words, unless the land platted is contiguous to and platted by the same applicant that platted the existing subdivision bearing the name, or the applicant has obtained the written consent of the party who platted the subdivision bearing that name, or the Administrator requires the use of the same name for purposes of clear identification.

6.2.4. In considering an application for a subdivision plat, the decision-making agency shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to ensure compliance with the criteria of this § 6.2.

6.3. MINOR SUBDIVISIONS.

6.3.1. MINOR SUBDIVISION DEFINED.

A minor subdivision is defined as a subdivision involving no new public street right-of-way dedications (except widening of existing, platted street rights-of-way).

6.3.2. UTILITY EXTENSIONS PERMITTED UNDER A MINOR PLAT.

A utility extension shall be defined as the extension of a water or sewer line that falls under the ownership and maintenance of the City of Kannapolis and shall require permitting by the State of North Carolina (or the City if approved by the State for "Self-permitting"). Such extension shall require a right-of-way or easement. If applicable, utility extensions shall be allowed under a minor plat review provided that:

- all construction drawings for utility extensions are submitted and approved in accordance with § 6.4.11 of this Ordinance;
- all lines/improvements are constructed in accordance § 6.4.11 of this Ordinance; and
- a final plat shall not be approved until all utility extension improvements have been inspected and accepted in accordance with §§ 6.4.12-6.4.16 of this Ordinance.

6.3.3. GENERAL SUBMISSION REQUIREMENTS.

6.3.3.1. Applications for sketch plat and final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

6.3.4. SKETCH PLAT SUBMISSION REQUIREMENTS.

6.3.4.1. The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss

the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.

6.3.4.2. The Administrator, upon consultation with the Public Works Director, shall issue either the Notice to Proceed or a Notice of Noncompliance not later than fifteen (15) days after the date on which the sketch plat was submitted to the Administrator. The Administrator shall issue a Notice to Proceed only if the sketch plat complies with all applicable laws governing the subdivision of land. The approval shall include, as appropriate, recommended changes in the sketch plat to be incorporated into the final plat. Subsequent to an approval, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations. If the sketch plat of a minor subdivision is denied by the Administrator, the applicant may appeal to Planning and Zoning Commission. The Planning and Zoning Commission shall review the application and shall affirm or reverse the decision of the Administrator. The applicant shall have one (1) year from the date that the sketch plat is approved to submit a final plat, after which time a new sketch plat must be submitted for approval.

6.3.5. FINAL PLAT SUBMISSION REQUIREMENTS.

6.3.5.1. Submission of a Final Plat shall be in the form of a standard plat in accordance with the provisions of Appendix B.

6.3.6. FINAL PLAT APPROVAL.

6.3.6.1. Prior to approval of a final plat, the Administrator shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

6.3.6.2. The Administrator, upon consultation with the Public Works Director shall render a determination as to whether the plat is approved, approved with conditions, or denied pursuant to §

6.2 of this Ordinance and NCGS §§ 160D-804 and 160D-804.1. The application shall be processed within the time period specified in Column (C) of Table 6.1-1. If a plat is approved, the Administrator (Planning Director) and the Public Works Director shall certify such approval by signing the plat. If disapproved, the Administrator shall advise the subdivider of such action and shall indicate the reasons for denial.

6.3.7. RECORDING A FINAL PLAT.

6.3.7.1. Within 30 days of final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an extension. The Administrator may grant up to two extensions of final plat approval, each of up to six (6) months. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void.

6.3.7.2. The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.

6.3.7.3. No zoning clearance permit or building permit shall be issued or approved until the expiration of ten (10) business days after a final plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus County.

6.3.7.4. Plat Review Officer. As required by N.C.G.S. 47-30.2, a plat to be recorded shall be submitted to a Review Officer before the map or plat is presented to the register of deeds for recording. The Review Officer shall certify the map or plat if it complies with all statutory requirements for recording. The register of deeds shall not accept for recording, any map or plat required to be submitted to the Review Officer, unless the map or plat has the certification of the Review Officer affixed to it.

Figure 6.3-1. Minor Subdivision Plat review process. (Subdivision does not include Water and/or Sewer Utility Extensions).

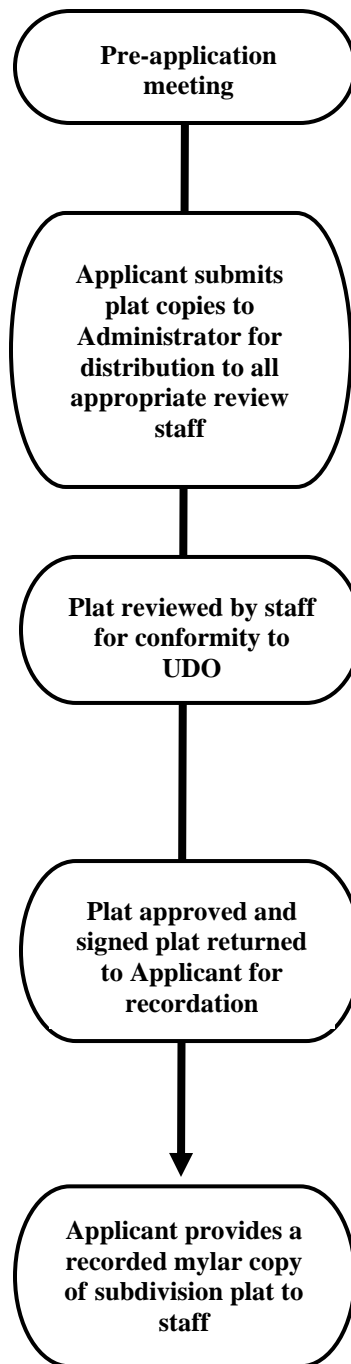
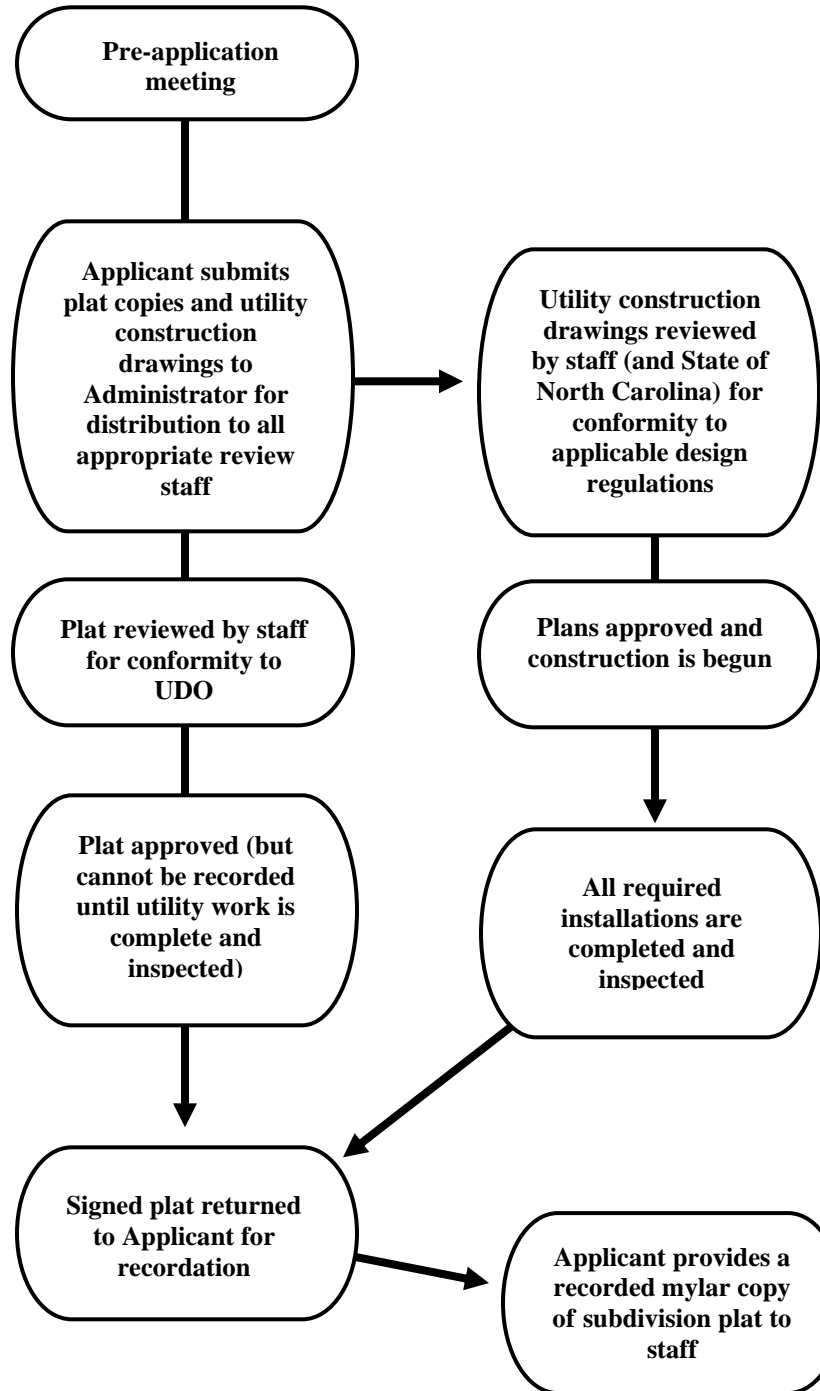


Figure 6.3-2. Minor Subdivision Plat review process. (Subdivision does include Water and/or Sewer Utility Extensions).



6.4. MAJOR SUBDIVISIONS.

6.4.1. MAJOR SUBDIVISIONS DEFINED.

6.4.1.1. All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

6.4.2. GENERAL SUBMISSION REQUIREMENTS.

Applications for sketch plat and final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

6.4.3. SKETCH PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.

6.4.3.1. The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.

6.4.3.2. The Administrator shall issue a Notice to Proceed only if the sketch plat complies with all applicable laws governing the subdivision of land and upon recommendation from the Public Works Director. The approval shall include, as appropriate, recommended changes in the sketch plat to be incorporated into the preliminary plat to assist the applicant in obtaining preliminary plat approval from the Planning and Zoning Commission. If the Administrator determines that the sketch plat does not comply with all applicable laws governing the subdivision of land and the applicant refuses to modify the sketch plat, the Administrator shall issue a Notice of Noncompliance. The Administrator shall issue either the Notice to Proceed or a Notice of Noncompliance not later than fifteen (15) days

after the date on which the sketch plat was submitted to the Administrator. After receipt of a notice of approval, the applicant shall be eligible to file an application for approval of a preliminary plat, as provided in these regulations, before filing for final subdivision plat approval.

6.4.4. PRELIMINARY PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.

6.4.4.1. If the Administrator has issued a Notice to Proceed for a sketch plat for a major subdivision, then the subdivider may proceed with a "Neighborhood Meeting" to be held at any location convenient to the property being developed or at City of Kannapolis meeting facilities. An invitation/announcement of the "Neighborhood Meeting" must be sent out by first class mail, no less than 10 days prior to the meeting to (1) the Planning and Zoning Administrator, (2) P&Z Commission Members, and (3) all property owners of record within 200 feet of the property lines of the subject development site. The invitation announcement must clearly indicate the time, place, and purpose of the meeting. After the "Neighborhood Meeting," the subdivider may proceed with the preparation of a preliminary plat.

6.4.4.2. Approval of a Preliminary Plat shall be required for any tract where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a Preliminary Plat for the property has been approved.

6.4.4.3. Appendix B establishes the information that is to be submitted with an application for approval of a Preliminary Plat.

6.4.4.4. Upon final approval, a Preliminary Plat shall be made a matter of record as follows:

6.4.4.4.1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Administrator.

6.4.4.4.2. The approved plat shall be indexed and filed by the Administrator.

6.4.5. SCOPE OF PRELIMINARY PLAT APPROVAL.

6.4.5.1. Approval of the preliminary plat by the Planning and Zoning Commission or the Technical Review Committee (TRC) shall allow a subdivider to proceed with:

- the preparation of the final plat;
- site preparation/grading (subject to obtaining Grading Permit and/or Erosion Control Permit as required in Art. 3 and Art. 9, respectively); and
- the installation of required improvements (subject to approval of construction drawings as described in § 6.4.11, below).

6.4.5.2. Approval of the preliminary plat by the Planning and Zoning Commission or the Technical Review Committee (TRC) without approved construction plans as set forth in § 6.4.11 shall not constitute the necessary approval for submittal of the final plat.

6.4.5.3. Should the plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the Administrator with all corrections within 60 days of the Commission's approval. Failure to return a corrected plat within this time period shall constitute a violation and shall be remedied in accordance with Section 1.6 of this Ordinance. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the Administrator.

6.4.5.4. The preliminary plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this chapter.

6.4.5.5. The preliminary plat shall be valid for the period prescribed by Table 6.4-1 herein. A preliminary plat shall become void if a final plat is not approved within the specified time period. Final Approval of a phase or portion of a preliminary plat shall re-establish the date for measuring the time period of a preliminary plat approval.

6.4.5.6. The Planning and Zoning Commission or Technical Review Committee (TRC) may approve a staging plan extending the effective period of the preliminary plat approval up to an

agreed time period or date where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time. Beyond two (2) years, the applicant shall resubmit the preliminary plat to the Administrator for review by the Planning and Zoning Commission.

**Table 6.4-1 Time Limits
for Major Subdivision Plat Approvals**

Type of Approval	Time Limit of Approval
Preliminary Plat	Agreed Time Period
	for Final Plat approval
Final Plat	30 days to record

6.4.5.7. The Technical Review Committee (TRC) may grant an extension, with just cause, of the time limit for the expiration of an approved subdivision upon receipt of a request from the landowner in writing prior to the expiration of the original approval. Notification of an extension shall be in writing to the landowner and specify the time period of the extension. After expiration of the extension the approved preliminary plat shall become void.

6.4.6. REVISING APPROVED PRELIMINARY PLATS.**6.4.6.1. Minor Modifications.**

The Administrator shall have the authority to approve the following minor modifications from an approved preliminary plat and subject to the conditions below and as listed in § 6.4.6.2:

- A change in the location of not more than ten percent (10%) of the number of lots;
- A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage; or
- A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Article 10 is maintained.
- changes are restricted to within internal parcel boundaries and shall not affect external property lines.

6.4.6.2. All other changes to an approved Preliminary Plat that do not meet the standards of this § 6.4.6 shall require the filing and approval of a new Preliminary Plat.

6.4.7. PUBLIC MEETING REQUIREMENTS

- a) **Meeting Location;** to be at a facility close to the development site or, if none available, at the Kannapolis City Council chambers at the Train Station, 201 South Main Street, Kannapolis.
- b) **Public Notification;** Invitations to be sent 15 days prior to the meeting to all property owners of records within 650 feet of the boundary of the proposed subdivision parcel and to members of the Planning and Zoning Commission by First Class Mail at the developer's expense,
- c) **Certification of Mailing;** Developer shall deliver stamped or metered letters and a list of the adjacent property owners to the Kannapolis Planning Department for delivery to the United States Post Office.
- d) **Invitations;** Invitation text to be reviewed by Kannapolis Planning Department for accuracy. Note: A copy of the proposed major subdivision information must always be provided to the Planning and Zoning Commission regardless of whether or not they conduct the final review of the project.

6.4.8. FINAL PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.

6.4.8.1. There shall be a final plat for each subdivision which receives preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this Section.

6.4.8.2. The materials required by Appendix B shall be submitted to the Administrator for a determination as to whether it complies with the approved preliminary plat. The subdivider may submit final plat copies for only that portion of the approved preliminary plat which is proposed for recordation and development at that time, if such portion conforms to all requirements of this Article. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat which does not constitute a Minor Amendment as set forth in § 6.4.6.1, shall require additional review and approval by the Planning and Zoning Commission.

6.4.8.3. The Administrator may find the application incomplete if 1) any of the information required for Final Plats in Appendix B is not provided; 2) the final plat does not conform to the conditions attached to approval of the preliminary plat; or 3) the plat is in conflict with the provisions of this Ordinance and no variance been approved.

6.4.8.4. Upon submittal of the copies of the final plat and other required materials, the Administrator shall review the application for completeness and shall initiate and coordinate review by affected city and state agencies in order to determine substantial compliance with the approved preliminary plat and general compliance with the provisions of this ordinance and other applicable laws and regulations. Prior to approval of a final plat, the Administrator shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

6.4.8.5. The final plat and related materials shall be approved or disapproved by the Administrator within the time period set forth in Table 4-1 of this Article. Approval shall be in the form of a written letter to the subdivider (or contact person as listed on application) advising that the final plat meets all city and state requirements and that the original of the final plat may be submitted to the Administrator.

6.4.8.6. The Administrator shall sign the plat. The action of the Administrator shall be noted on all copies of the final plat to be retained as required for records or further action of the department or other affected agencies of the city or state. Following execution of the final plat, the applicant shall record it with the Register of Deeds.

6.4.8.7. Except as provided in § 6.4.15 Subdivision Improvement Agreements, all applicants shall be required to complete, to the satisfaction of the Administrator and Public Works Director, all street, sanitary, and other public improvements of the subdivision as required by this Ordinance before the final plat is recorded.

6.4.8.8. As a condition of Final Plat approval, the Administrator may require the applicant to:

6.4.8.8.1. In the event the applicant is unable

to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery of the deed and guarantees in order to complete the improvements as required.

6.4.8.9. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as set forth in Appendix B.

6.4.8.10. In addition to the criteria as set forth in § 6.2 of this Ordinance, the Administrator shall not approve a final plat unless and until satisfactory evidence is filed that the final plat is in a form acceptable for recording with the Register of Deeds, and that all improvements have been satisfactorily installed or Subdivision Improvement Agreements have been signed by the applicant. The subdivider will also be required to submit a final subdivision plat fee, payment of all design costs for improvements, and appropriate performance surety.

6.4.8.11. The final plat shall comply with any staging or sequence plan set forth in the preliminary plat.

6.4.8.12. The applicant shall place reference monuments in the subdivision as required by NCGS § 47-30.

6.4.9. PHASING OF A PRELIMINARY PLAT. Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the final plat shall coincide with phase lines as established on the preliminary plat. Phasing of a preliminary plat shall not be permitted unless the phase lines are established and approved under the action of the Planning and Zoning Commission.

6.4.10. RECORDING A FINAL PLAT.

6.4.10.1. Within the time period prescribed by Table 6.4-1 of this Ordinance, after final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an

extension. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void and shall require a new application.

6.4.10.2. The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.

6.4.10.3. Plat Review Officer. Final plats for major subdivisions shall be reviewed by a Review Officer in the same manner as set forth in § 6.3.7.4 of this Ordinance.

6.4.11. SCOPE OF APPROVAL FOR FINAL PLAT.

6.4.11.1. Approval of the final plat for a subdivision or section thereof shall not be deemed to be acceptance by the city or state of any street, alley, public space, utility or other physical improvements shown on the final plat and engineering plans for the maintenance, repair or operation thereof. (See § 6.4.13 for acceptance).

6.4.11.2. No zoning clearance permit or building permit shall be issued or approved until the expiration of ten (10) business days after a final plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus (or Rowan) County.

6.4.12. CONSTRUCTION PLANS.

6.4.12.1. Following approval of the Preliminary Plat, the applicant shall have prepared, by a professional engineer or professional landscape architect, registered in the State of North Carolina, construction plans, consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, storm water facilities, water system facilities, sidewalks and other improvements required by Appendix C and the Land Development Standards Manual (LDSM) and any additional technical manuals as adopted by the City. Construction plans shall be submitted to the Public Works Director for review and approval as an administrative permit. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements of this Ordinance, and, where applicable, the requirements and authorization of the appropriate state agency, utility company or local franchisee.

6.4.12.2. The Administrator shall delegate the authority to review and approve all construction plan applications to the Public Works Director.

6.4.12.3. All installations of improvements shall conform to the approved construction plans. If the applicant chooses to make modifications in design and/or specifications prior to construction, such changes shall be subject to review and approval by the Public Works Director. It shall be the responsibility of the applicant to notify the Administrator in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans, such unapproved work shall constitute a violation of this Ordinance and shall be remedied in accordance with Section 1.6. The applicant shall be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

6.4.12.4. As-Built Drawings.

Prior to final inspection of the required improvements, the applicant shall submit to the Administrator, per the Land Development Standards Manual (LDSM), as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be re-certified by the applicant's engineer indicating the date when the as-built survey was made.

6.4.12.4.1. As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers, manholes, inlets, junction boxes, detention basins and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. In conjunction with the submittal of engineering plans and specifications, the subdivider shall be required to demonstrate compliance with the Sedimentation Control Standards of the overall area proposed to be developed. The subdivider shall cause all grading, excavations, open cutting, and similar land surface disturbances to be mulched, seeded, sodded, or otherwise protected to ensure compliance with the City's Sedimentation

Control Standards. No work shall be initiated relative to the preparation of land or the installation of general improvements until such time as all aspects of the subdivider's engineering plans and sedimentation control proposals have received approval.

6.4.12.4.2. As-built drawings shall depict water lines, valves, fire hydrants and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and location and description of valves with dimensional ties.

6.4.12.4.3. As-built drawings shall depict the location of all street rights-of-way, alignments, widths, and vertical elevations.

6.4.12.4.4. As-built drawings shall show all control points and monumentation.

6.4.13. INSPECTION OF IMPROVEMENTS.

6.4.13.1. During the preparation of land and the installation of general improvements, periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the city and state may make inspections at any time during the progress of work.

6.4.13.2. All improvements required by these regulations shall be inspected prior to acceptance by the City. Where inspections are made by individuals or agencies, other than the Public Works Director, (or his/her designee), the applicant shall provide the Public Works Director with written reports of each final inspection.

6.4.13.3. Prior to beginning construction, the applicant shall arrange with the Public Works Director a pre-construction meeting for the purpose of coordinating construction activities.

6.4.13.4. It shall be the responsibility of the applicant to notify the Public Works Director (or his/her designee) of the commencement of construction of improvements one (1) full working day prior thereto. Inspections shall be required at each of the following stages of construction or as otherwise determined through and owner contract or development improvement agreement:

- Site grading/erosion control completion

- Underground utility installation
- Subgrade preparation prior to aggregate base installation
- Aggregate base compaction
- Concrete curb and gutter installation
- Bituminous binder placing
- Final surfacing prior to seal coat

6.4.13.5. The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

6.4.14. ACCEPTANCE OF IMPROVEMENTS.

6.4.14.1. Approval of the installation of improvements by the Public Works Director shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair or operation thereof. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

6.4.14.2. Easements. The specific standards for acceptance of easements shall be subject to the technical design standards of this Ordinance and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance.

6.4.14.3. The City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted.

6.4.14.4. When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Public Works Director, the City Council shall accept the improvements for maintenance by the City, except that this shall not apply to improvements maintained by another entity.

6.4.14.5. These provisions shall not be construed to relieve the subdivider or the subdivider's agent or

contractor of any responsibility in notifying any agency for the City of completed work and formal request for inspection of same. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.

6.4.15. SITE CLEANUP.

6.4.15.1. The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public right-of-way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the City is prohibited.

6.4.16. SUBDIVISION IMPROVEMENT AGREEMENTS.

6.4.16.1. The Administrator shall delegate the authority to review and approve all residential subdivision improvement agreements to the Public Works Director (or his/her designee).

6.4.16.2. The Public Works Director may delay the requirement for the completion of required improvements prior to recordation of the Final Plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than one (1) year following the date upon which the final plat is recorded. Such period may be extended for up to an additional six (6) months upon its expiration at the discretion of the Public Works Director. The Applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The City Attorney shall approve any Subdivision Improvement Agreement as to form.

6.4.16.3. In order to provide for emergency access, no Zoning Clearance Permit is to be issued until the Base Course for the streets within the applicable phase for which a final plat is proposed has been installed.

6.4.16.4. At the discretion of the of the Public Works Director, the City may enter into a subdivision improvement agreement with the applicant for a residential development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, and park or open space dedication and

improvements. Notwithstanding any provision in this Ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

6.4.16.5. Performance Guarantee. Whenever the Public Works Director permits an applicant to enter into a Subdivision Improvement Agreement, the applicant shall be required to provide a performance guarantee to ensure completion of the required public improvements. The performance guarantee shall be in the form of an irrevocable letter of credit, performance bond (subject to approval by the City Attorney and the Public Works Director) or cash escrow.

6.4.16.6. The performance guarantee shall be in an amount approved by the Public Works Director as reflecting 125 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement. The applicant shall submit an executed contract from N.C. licensed contractors, made assignable to the applicant and the City. The Public Works Director shall have the opportunity to review the estimates of work to be completed prior to approval.

6.4.16.7. In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.

6.4.16.8. The issuer of any surety bond shall be subject to the approval of the City Attorney and the Public Works Director.

6.4.16.9. If the performance guarantee is provided in the form of a cash escrow, the applicant shall deposit with the City Attorney a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Public Works Director.

6.4.16.10. The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.

6.4.16.11. Where oversized facilities are required, the Public Works Director and applicant shall specify a reimbursement procedure in the

Subdivision Improvement Agreement.

6.4.16.12. The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements.

6.4.16.13. Release of Performance Guarantee. Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Public Works Director (or his/her designee) shall inspect the work. If the Public Works Director determines that the work is satisfactory and complete, the performance guarantee shall be released. The Public Works Director shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance guarantee. Upon approval, the Public Works Director shall permit either a one-time release or incremental release of the performance guarantee.

6.4.16.14. Failure to Complete Improvements.

If a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Public Works Director may:

6.4.16.14.1. Declare the Agreement to be in default thirty days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

6.4.16.14.2. Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;

6.4.16.14.3. Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange

for the subsequent owner's Agreement to complete the required public improvements; and/or

6.4.16.14.4. Exercise any other rights available under the law.

6.4.17. MAINTENANCE GUARANTEE.

6.4.17.1. The Administrator shall delegate the authority to review and approve all maintenance bonds to the Public Works Director.

6.4.17.2. The applicant shall guarantee the improvements against defects in workmanship and materials for a period of one (1) year from the date of acceptance of such improvements. In exceptional situations, where undue hardship would otherwise result and the shorter term would not be inconsistent with the purposes of this Ordinance, the Public Works Director may approve a shorter-term maintenance guarantee. The maintenance guarantee shall be secured by a surety bond or cash escrow in an amount reflecting five (5) percent of the cost of the completed improvements.

6.4.17.3. The applicant shall construct and pay for all costs of temporary improvements required by the Public Works Director and shall maintain said temporary improvements for the period specified by the Public Works Director.

6.4.17.4. Thirty (30) days prior to the expiration of the maintenance guarantee instrument, if any defects in workmanship and/or materials are not repaired to the satisfaction of the Public Works Director, the subdivider shall be required to make all necessary repairs immediately.

6.4.18. SUBDIVISION EXCEPTIONS. (Applies Only to Preliminary Plats for Major Subdivisions).

6.4.18.1. Where the Planning and Zoning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the exception shall not have the effect of nullifying the intent and

purpose of these regulations; and further provided that the Planning and Zoning Commission shall not approve exceptions unless it shall make findings based upon the evidence presented to it in each specific case that:

6.4.18.1.1. The granting of the subdivision exception will not be detrimental to the public safety, health, or welfare or injurious to other property;

6.4.18.1.2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

6.4.18.1.3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

6.4.18.1.4. The relief sought will not in any manner vary the provisions of the Comprehensive Plan, or Official Map, except that those documents may be amended in the manner prescribed by law.

6.4.18.2. In approving a subdivision exception, the Planning and Zoning Commission may require such conditions as will, in its judgment, secure substantially the purposes described in § 6.2 of this Ordinance.

6.4.18.3. Application Procedure for Subdivision Exception. A petition for a subdivision exception shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

6.4.18.4. The Planning and Zoning Commission shall consider the application at a public hearing and shall approve, approve with conditions, or deny the Subdivision Exception. Said hearings before the Planning and Zoning Commission shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

6.4.18.5. The applicant may appeal the decision of the Planning and Zoning Commission to the City Council by filing a Notice of Appeal with the

Administrator. If the applicant submits a Notice of Appeal, the Administrator shall schedule the application for a hearing before the City Council. The City Council shall consider the appeal of the decision of the Planning and Zoning Commission at a public hearing and shall approve, approve with conditions, or deny the application for an exception. Said hearings before the City Council shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

6.4.19. CLUSTER SUBDIVISIONS.

6.4.19.1. PURPOSE. The Cluster Development provisions provide an alternative to standard residential development practices. This land development technique involves locating clusters of home sites on smaller lots than those permitted under conventional development regulations with the remaining “saved” land being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and/or recreational facilities for community benefit. A perimeter buffer defines the edges of a Cluster Development to provide visual screening and separation from adjoining properties and streets.

6.4.19.2. CLUSTERING PERMITTED. In any residential zoning district where clustering is permitted, a developer may create lots that are smaller and arranged differently than those required by the standard zoning district regulations if the developer complies with the provisions of this Section. Cluster developments are permitted only as a special use in the following base zoning districts, or as an allowed use in the corresponding conditional zoning districts, and only in accordance with the standards and criteria set forth in this Ordinance:

AG Agricultural District
RE Rural Estate District
RL Residential Low Density
RM-1 Residential Medium Density
RM-2 Residential Medium Density

6.4.19.3. GENERAL STANDARDS.

6.4.19.3.1. The lots intended to be open space dedications shall be designated on the subdivision plat as “Open Space Lots.” Residential structures

shall not be permitted to be constructed on such lots.

6.4.19.3.2. Cluster lots shall be located in one or more contiguous groupings. Provided, however, that no more than twenty (20) lots may be in a single contiguous group without a minimum 50-foot separation. Streets shall be considered acceptable for constituting the minimum separation, except that contiguous lots that extend or “wrap” around a block shall be required to provide the minimum 50-foot separation.

6.4.19.3.3. Cluster lots may adjoin a local street (including a Cul-de-sac) and active or passive Open Space.

6.4.19.3.4. PUBLIC WATER & SEWER. The development shall be served by a public water system and a public sewer system.

6.4.19.3.5. LOT DIMENSIONAL STANDARDS.

6.4.19.3.5.1. At least thirty (30) percent of the total project area shall be set aside as common open space, which shall allow a twenty (20) percent reduction in the standard minimum lot size, minimum lot width, and the minimum structure setbacks of the zoning district.

6.4.19.3.5.2. In any zoning district, a Cluster Development shall not exceed the permissible density and the maximum impervious surface area per lot of the zoning district described in Table 4.7-1.

6.4.19.3.6. OPEN SPACE STANDARDS.

6.4.19.3.6.1. Dedicated open space shall comply with the requirements of the Section 6.5 of this Ordinance in addition to the standards set forth herein. Notwithstanding, the fee-in-lieu of open space dedications described in § 6.5.5 shall not be applied to any cluster development. Where there are conflicts, the more restrictive standard shall apply.

6.4.19.3.6.2. Such active open space shall be located a minimum of fifty (50) feet from any residential lot, which may be in a publicly dedicated street right-of-way, or alternatively,

must be screened by a screening device that meets the requirements of §7.4.2.2 of this Ordinance.

6.4.19.3.6.3. The required open space shall be limited to maximum of 25% percent of inaccessible land. Inaccessible land is defined in Table 6.5-1 of this Ordinance. Additional open space as volunteered by an applicant under § 4.8.3.5.1 shall also be subject to a 25% limit on percent of inaccessible land.

**6.4.19.3.7. LANDSCAPING AND
BUFFERING REQUIREMENTS.**

6.4.19.3.7.1. A Class “C” Buffer yard pursuant to the Article 7 of this Ordinance shall be established around the entire perimeter of a Cluster Development and designated as either undisturbed, conservation easements or common open space on a subdivision plat. The following additional provisions shall apply to any buffer yard:

- Buffer yards designated as common open space on a subdivision plat may be used in calculating the required common open space.
- The use of existing vegetation to meet the requirements will be judged on field observation by the Administrator.
- Except in active recreation areas, existing healthy trees over twelve (12) inches in diameter in the common open space shall be preserved. The use of temporary fencing shall be employed to protect such trees during site development.

Table 6.4.19-1. - Recommended Design Elements for a Cluster Development

As indicated in § 6.4.19.1, the cluster development option is intended to permit flexibility in the design, construction, and processing of residential developments of a quality that could not be achieved under conventional subdivision design. Therefore, the following elements are recommended for consideration in the design of a cluster development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a cluster development, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

Architectural elements

- Building height, rhythm, articulation, massing, and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house.

Figure 6.4-1. Major Plat review process – Includes Step (1) Preliminary Plat and Step (2) Construction Drawings. Figure 6.4-2 includes process for Step (3) Final Plat.

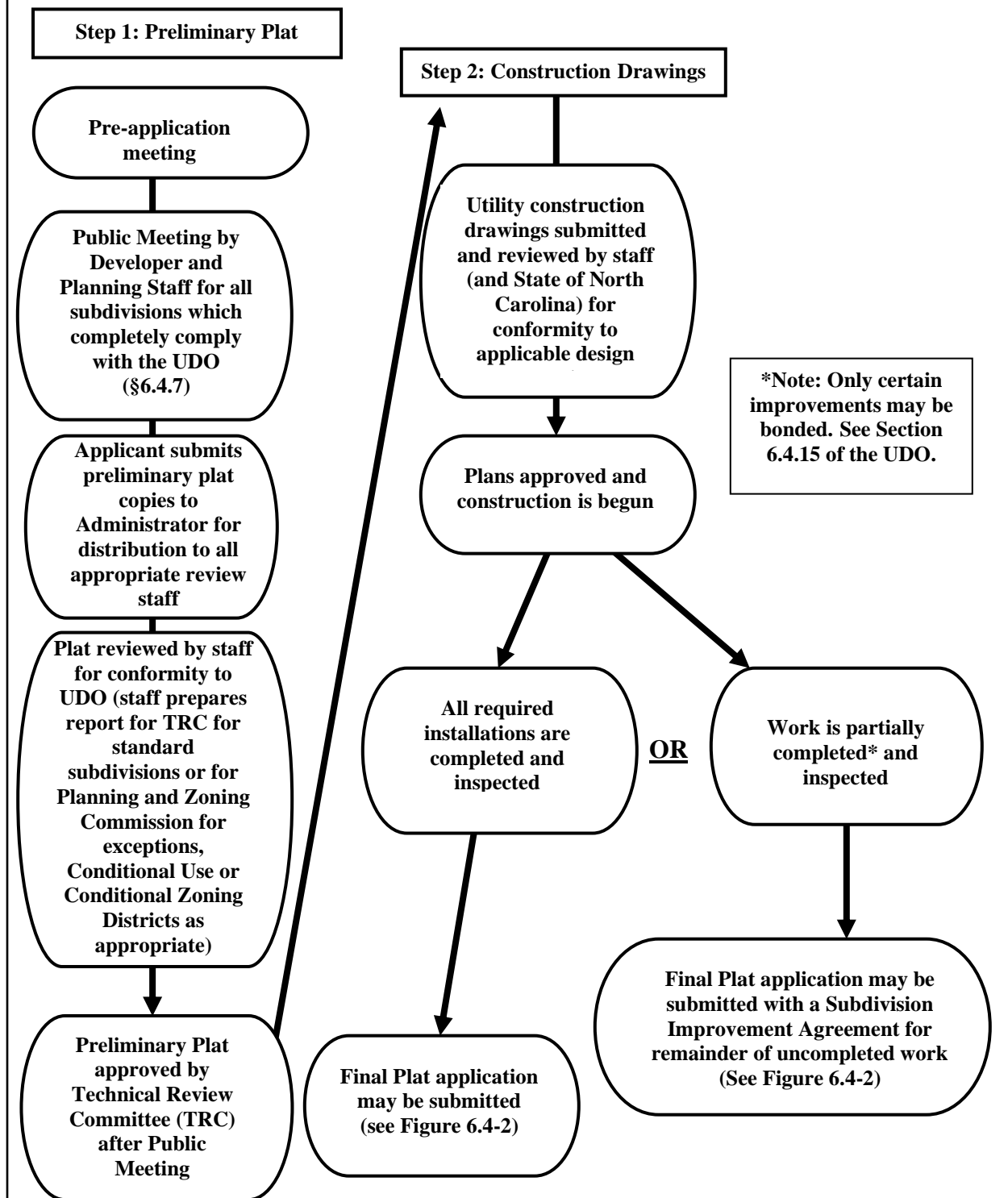
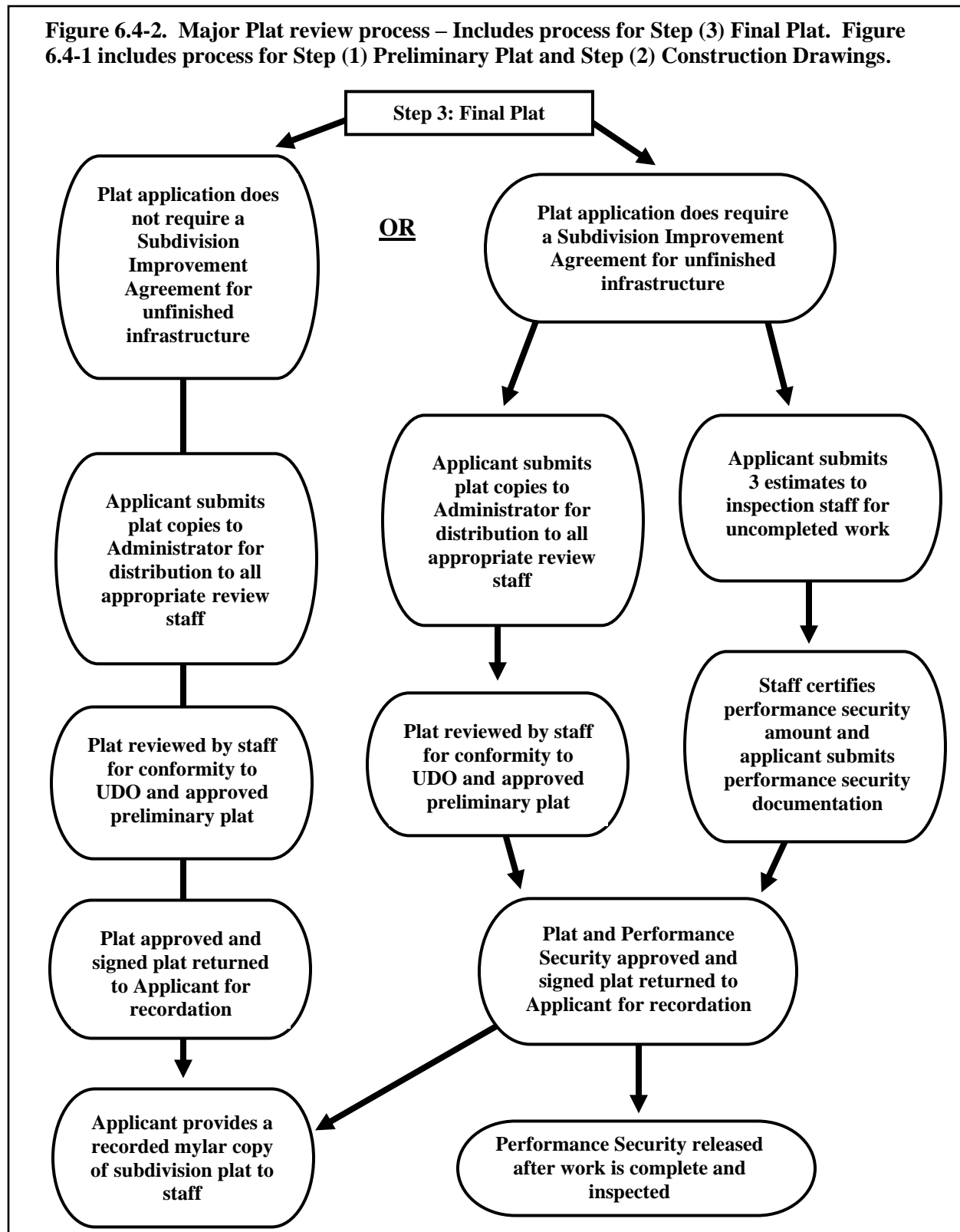


Figure 6.4-2. Major Plat review process – Includes process for Step (3) Final Plat. Figure 6.4-1 includes process for Step (1) Preliminary Plat and Step (2) Construction Drawings.



6.5. OPEN SPACE STANDARDS.

6.5.1. APPLICABILITY

6.5.1.1. The provisions of this section shall apply to an application for a major subdivision plat approval.

6.5.1.2. Connection to Public Open Space. The Administrator may require connection to a community open space network and/or trails system if the proposed development is adjacent to the boundary of an established community public open space as included in the *Livable Communities Blueprint* for Cabarrus County, which is hereby incorporated by this reference as if set forth in its entirety herein. The open space/trail system shall be maintained by the applicant or subsequent owners provided, however, that the applicant may request to publicly dedicate any trail specifically delineated in the *Parks and Trails Plan*.

6.5.2. PRESERVATION OF OPEN SPACE.

6.5.2.1. Required open space shall be reserved for any major subdivision of land within the zoning districts set forth in column "A" of Table 6.5-1 based upon the percentage of net acres in the proposed development corresponding the zoning district as set forth in Column "B" in Table 6.5-1 hereto.

6.5.2.2. Exemption. Subdivisions with less than 200 dwelling units, located within ½ mile of walking distance from an existing or planned public park (or a public school with recreation facilities accessible to the general public) shall be exempt from the requirements of this Section 6.5.2.1. Subdivisions with 200 or more dwelling units shall not be exempt.

6.5.2.3. Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained as determined by the City Council by any of the following mechanisms or combinations thereof:

6.5.2.3.1. Dedication of open space to the City, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication

and is financially capable of maintaining such open space.

6.5.2.3.2. Common ownership of the open space by a property owner's association which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the homeowner's association fails to maintain the open space according to the standards of this Ordinance, the City may, following reasonable notice:

6.5.2.3.2.1. demand that deficiency of maintenance be corrected; or

6.5.2.3.2.2. enter the open space to maintain same. The cost of such maintenance shall be charged to the homeowner's association.

6.5.3. OPEN SPACE CHARACTERISTICS.

Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.

6.5.3.1. Open Space Provisions and Maintenance Plan Required.

Any areas reserved as open space shall be indicated on a preliminary and/or final subdivision plat. An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:

6.5.3.1.1. Designate areas to be reserved as open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site.

6.5.3.1.2. Designate the type of open space which will be provided (passive or active). Passive and Active open space are defined as:

- **Active Open Space** - Any park and recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user. Activity-based recreation areas include, but

are not limited to, playgrounds, golf courses, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, and tennis courts.

- **Passive Open Space** - Areas in and located due to the presence of a particular natural or environmental setting and which may include conservation lands providing for both active and passive types of resource-based outdoor recreation activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition that cannot easily be duplicated by man and includes, but is not limited to, boating, fishing, camping, nature trails and nature study. Farms may be considered as passive open space.

6.5.3.1.3. Specify the manner in which the open space shall be perpetuated, maintained, and administered.

6.5.3.1.4. The types of open space which may be provided to satisfy the requirements of this Ordinance, together with the maintenance required for each type, are as follows:

6.5.3.1.4.1. Passive open space maintenance is limited to removal of litter, dead tree, and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

6.5.3.1.4.2. No specific maintenance is required for agricultural uses.

6.5.3.1.4.3. Active open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

6.5.3.2. Greenways.

Greenways connecting residences, schools and recreational areas are encouraged. Maintenance is limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

6.5.3.3. Greenbelts (as required in TND developments, see § 4.10).

6.5.3.3.1. Greenbelts, as required by the Traditional Neighborhood Development overlay district, may be counted as Passive Open Space provided, however, that:

6.5.3.3.2. The greenbelt shall have an average width of not less than fifty (50) feet.

6.5.3.3.3. If the greenbelt consists of agricultural areas, the agricultural areas shall have a continuous area of not less than fifty (50) acres. The agricultural areas may be combined with adjacent agricultural lands provided, however, that the minimum width prescribed above shall be met on all portions of the agricultural greenbelt on the site.

6.5.3.4. Spacing and Dimensional Limitations.

In order to ensure that all designated open space has suitable size, location, dimension, topography and general character, and proper road and/or pedestrian access, as may be appropriate, to be usable open space, the following standards shall apply.

6.5.3.4.1. Open space should be within one-half (1/2) of a mile from any lot upon which a dwelling is intended to be built.

6.5.3.4.2. The minimum dimension for usable open space shall be fifteen (15) feet of width.

6.5.3.4.3. The percentage of open space comprised of inaccessible land as defined in Table 6.5-1 shall not exceed the amount set forth in column (D) of Table 6.5-1.

6.5.3.5. Use of Stormwater Detention Basins.

Retention areas or detention basins which may be required as part of Sect. 9.2 of this Ordinance shall not qualify as an open space area unless fifty percent (50%) or more of the active and usable area is above the ten (10) year storm and is designed for multiple uses and the area(s) conforms to the requirements of subsections 1 and 2 below. This standard shall not apply to commercial or industrial developments which shall be permitted to calculate the retention and detention area as part of the required open space area.

6.5.3.5.1. Retention or detention areas may meander through the subdivision as a greenbelt, rather than as a single basin. Retention areas shall be improved so as to be useable and accessible. Retention areas shall not be inundated so as to be unusable for their designated recreational purposes.

6.5.3.5.2. Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a 3:1 slope.

6.5.3.6. Required Improvements

6.5.3.6.1. Subdividers shall be responsible for making certain improvements to the land they dedicate as open space within their development for park, playground and public active open space purposes as follows:

6.5.3.6.2. Provide finish grading and turf establishment for all disturbed areas and provide landscaping and/or screening in accordance with Article 7.

6.5.3.6.3. Complete, construct, and pave walkways which may be required as a trail link connector in accordance with this Section 6.5. Such walkways may be within or abutting residential street right-of-ways. Such connections shall not be used in the calculations described in §6.5.3.6.4

6.5.3.6.4. For developments consisting of 200 lots or more, provide for active open space improvements as defined in § 6.5.3.1.2. Such improvements shall equal a total minimum financial investment of 200% of the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required. The specified contribution shall be determined by the tax value of the parcel at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

6.5.4. ACCESS TO OPEN SPACE.

6.5.4.1. All areas to be preserved for open space are to be accessible to pedestrians by one of the following:

- frontage (width as required in this Section) on a public street right-of-way; or
- recorded pedestrian easement (min. 15' wide); or
- fee simple property

6.5.4.2. Upon review of the design by the Administrator, additional pedestrian access points may be required.

6.5.5. FEES IN LIEU OF OPEN SPACE

6.5.5.1. In lieu of land dedication, the City Council may permit the subdivider to contribute a cash payment to the City. The value of such payment shall be the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required and the cash value of the minimum required financial investment for active open space improvements as described in § 6.5.3.6.4. The specified contribution shall be determined by the tax value at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

6.5.5.2. If, at the option of the City Council it is determined that a cash dedication shall be made, said cash shall be paid to the City Finance Director and shall be deposited into a special Parks and Recreation Service Area fund prior to final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development or rehabilitation of park land or improvements related thereto.

6.5.5.3. Collected fees shall be appropriated by the City for a specific project to serve residents of the subdivision in a budgetary year within seven years upon receipt of payments or within seven years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision.

Table 6.5-1 Required Open Space for Subdivisions

(A) Zoning District(s)	(B) Required Percentage of Open Space	(C) Maximum Percent in Inaccessible Land*
AG	N/A	N/A
RE, RL, RM-1, RM-2, RV and RC	8% (0 - 2 units per acre)** 10% (2.1 - 4 units per acre)** 12% (greater than 4 units per acre)**	25%
B-1, O-I, CC, C-1, C-2	N/A	N/A
CD	8%	75%
I-1, I-2	N/A	N/A
PUD	25%	25%

*"Inaccessible Land" shall include:

- any land where no zoning and/or building construction permits may be issued (such as dedicated easements and rights-of-way (except those existing to only protect underground utilities such as water or sewer lines), wetlands, bodies of water, etc. as determined by the Administrator); or
- land with a post-development slope greater than 3:1 which severely limits its usefulness as open space.

**Based on the proposed density of the project subject to the maximum density of the respective zoning district

Note: Floodway areas shall not be included in calculating areas to be considered for Open Space.

6.6. LOT DESIGN STANDARDS.

6.6.1. PURPOSE OF SITE DESIGN STANDARDS.

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets and other public facilities.

6.6.2. MINIMUM LOT STANDARDS.

6.6.2.1. The provisions of this § 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 6 of this Ordinance.

6.6.2.2. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see § 4.7) and buffer yards (see Article 7) will exist on the lot.

6.6.3. BLOCKS.

6.6.3.1. The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. The maximum length of any blocks within a subdivision shall not exceed that as shown in Table 6.6-1, except where topographic conditions and / or unique lot configurations offer no practical alternatives; non-conforming blocks require approval by the Technical Review Committee (TRC) prior to preliminary plat approval. (a dash [-] indicates that the requirement is not applicable). Block length shall be measured from the end of the right-of-way (ROW) on one side of the block to the beginning of the right-of-way (ROW) on the other side of the block.

Table 6.6-1 Block Length Requirements

Zoning District	Maximum Length (in feet)
AG, RE	—
RL, RM-1, RM-2, RV, RC, B-1, CC, TC, C-1, C-2	600
CD, I-1, I-2	—
PUD, TND	500

6.6.4. CORNER LOTS.

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

6.6.4.1. run at right angles to the right-of-way line, or

6.6.4.2. in the case of cul-de-sacs or curvilinear street right-of-ways, radial to the curve.

6.6.5. LOT FRONTAGE REQUIREMENTS.

6.6.5.1. Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in Article 6 of this Ordinance shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided in this section.

6.6.5.2. For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five (5) lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.

6.6.5.3. Frontage on a public street shall not be required in the following situations; provided, however, that an easement or other right-of-way arising out of operation of law providing access to the public street shall be recorded and submitted with the application for development approval:

6.6.5.3.1. Parcels within nonresidential subdivisions;

6.6.5.3.2. Town home lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots;

6.6.5.3.3. Lots fronting on approved private streets;

6.6.5.3.4. A lot of record existing on January 8, 2001 without public street frontage may be subdivided once provided that the created lot meets all other zoning district lot standards. The created lot may only be developed for one single-family residence and may not be subdivided.

When a private easement serving the lot, parcel or tract is acquired from intervening property owners, such easement shall be in compliance with the following requirements:

- The easement must have a minimum continues width of 18 feet.
- The recorded documents creating the easement shall specify that public service, utility, and emergency personnel and vehicles shall have freedom of ingress and egress from the property.
- The recorded documents creating the easement shall also specify that utilities (i.e., natural gas, electricity, telephone, cable) may be installed within the easement.
- The recorded documents creating the easement shall also include a statement specifying the party responsible for maintaining the easement and its traveled surface.
- The easement must have an all-weather surface of gravel, concrete, or asphalt with a minimum continuous width of ten (10) feet and a minimum overhead clearance of twelve (12) feet to ensure access of public service, utility, and emergency personnel and vehicles.
- The grantor and grantee of the easement will agree to continuously keep the easement free and clear of any and all obstructions that would in any way impede vehicular traffic.

6.6.5.4. Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment.

6.6.6. FLAG LOTS.

6.6.6.1. Flag lots may be developed on a limited basis in subdivisions where individual development of each lot is contemplated, and the Administrator determines that no future street access through the property will be needed. Flag lots may be used to better use irregularly shaped properties or sites with physical limitations, or to eliminate or reduce access to a thoroughfare or collector street. Flag lots shall not be permitted in any proposed Subdivision except as provided for in this section.

6.6.6.1.1. The maximum number of flag lots

shall be set forth in Table 6.6-2, where the Administrator finds that the flag lot(s): (1) allow for the more efficient use of irregularly shaped parcels of land, or (2) where the integrated nature of multiple buildings on a site dictates the need for such lots.

6.6.6.1.2. The minimum width of the “pole” portion of a flag lot shall be the minimum public street frontage requirement set forth in Table 4.7-1.

6.6.7. CUL-DE-SAC LOTS.

6.6.7.1. A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

6.6.7.1.1. lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet; and

6.6.7.1.2. lot area equal to or greater than the minimum lot area (if one is specified); and

6.6.7.1.3. the minimum required lot width at the building line.

6.6.8. PERIMETER BUFFER YARD FOR MAJOR RESIDENTIAL SUBDIVISIONS.

6.6.8.1. A buffer yard shall be required along the perimeter of a major residential subdivision in order to separate residential lots from abutting thoroughfares and abutting non-residential uses.

6.6.8.2. The buffer yard for abutting non-residential uses shall be designed and landscaped per Section 7.4 of this Ordinance. The buffer yard for abutting a thoroughfare shall be a Type D buffer as set forth in Table 7.4-2 of this Ordinance.

6.6.8.3. All required buffer yards shall be platted as common areas and may be included as “open space” subject to the standards and criteria as set forth in § 6.5 of this Ordinance.

Table 6.6-2. Maximum Number of Flag Lots

Size of Subdivision	Maximum Number or Percentage (%) of Flag Lots
2 – 20 lots	1 lot
Over 20 lots	1 per every 20 lots

- This table does not apply to the AG District. The AG district does not have a limit on the number of flag lots.
- The Administrator may approve additional flag lots if evidence is presented that physical hardships prevent development of land using conventional lot design.

6.6.9. INFRASTRUCTURE STANDARDS.**6.6.9.1. Standards for Street Design.**

Public and/or private streets shall be designed in accordance with Article 10 of this Ordinance and the Land Development Standards Manual (LDSM).

6.6.9.2. Standards for Utilities.

Standards for the design and installation of public utilities shall be in accordance with Appendix C of this Ordinance and the Land Development Standards Manual (LDSM).